

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 8:13CR105
)
vs.) ORDER
)
TIMOTHY DEFOGGI and)
ZACKARY AUSTIN,)
)
Defendants.)

This matter is before the court on the motion of government for a trial setting (Filing No. 134). The court held a telephone conference with counsel on May 6, 2014. Participating in the conference were Michael P. Norris, Keith A. Becker, and Sarah Chang for the government, John S. Berry, Jr. for defendant DeFoggi, and Chad D. Primmer for defendant Austin. The court finds additional time is needed to secure the testimony of an essential witness from Russia and the completion of the defendants' expert reports. Additionally, there are pending motions to resolve. Accordingly, the trial of this matter will be scheduled to commence on August 18, 2014.

IT IS ORDERED:

1. The motion to set trial (Filing No. 134) is granted. Trial of this matter shall commence before Judge Joseph F. Bataillon and a jury on August 18, 2014.

2. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **May 6, 2014, and August 18, 2014**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that counsel require additional time to adequately prepare the case, an essential witness is unavailable, and this matter is a complex and unusual case requiring additional time. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(3)A and (h)(7)(B)(i), (ii) and (iv).

DATED this 6th day of May, 2014.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge